2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received:	**5/16/2013**	Received By:	**btradewe**
Wanted:	**As time permits**	Same as LRB:	
For:	**Legislative Fiscal Bureau**	By/Representing:	**Ferguson**
May Contact:		Drafter:	**btradewe**
Subject:	**Agriculture - other**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Legislative Fiscal Bureau**
Carbon copy (CC) to:

Pre Topic:

LFB:......Ferguson -

Topic:

Milk contractor assessments

Instructions:

See attached motion 221

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	btradewe 5/17/2013	jdyer 5/20/2013	phenry 5/20/2013	_______ _______	sbasford 5/20/2013		

FE Sent For:

<END>

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/P1	btradewe	/P1 5/20 jld	5/20 ph	~~X~~			

FE Sent For:

<END>

Representative Kooyenga

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Agricultural Producer Security Program -- Milk Contractor Assessments

Motion:

Move to amend Subchapter V of Chapter 126 (agricultural producer security program) to specify the following items may not be included by a milk contractor in calculating certain asset-to-liability ratios to determine assessments or securities required under the program, unless specifically approved by the Department of Agriculture, Trade and Consumer Protection (DATCP): (a) a liability and the corresponding impact to equity resulting from the recording of other comprehensive losses related to a defined benefit pension plan or plans; and (b) an asset and corresponding liability from the balance sheet that is proven to be owed and collectable from the company itself.

Note:

Under the agricultural producer security (APS) program, DATCP collects annual and monthly license fees and additional risk-based assessments from milk contractors, vegetable contractors, grain dealers and grain warehouse keepers. Proceeds are held in the segregated agricultural producer security fund to compensate producers in the event a contractor defaults on payment for products received. As of March 31, 2013, DATCP reports the APS fund had an overall balance of $12.3 million, of which $7.6 million was attributable to milk contractors.

Contractors are required annually, and in some cases, quarterly, to provide DATCP with financial statements prepared according to Generally Accepted Accounting Principles (GAAP). In general, assessments are due from a contractor if a financial statement shows the entity had: (a) negative equity; (b) a ratio of current assets to current liabilities not exceeding 1.25; or (c) a ratio of liabilities to equity greater than 2.0. Assessments, if payable by a contractor, are based on these ratios and gross obligations to milk producers.

Further, under administrative rule ATCP 100 (milk contractors), DATCP provides that milk contractors may be eligible for an assessment holiday in a license year if the following conditions are met: (a) the contractor contributed to the APS fund in each of the five license years immediately preceding that license year; (b) the APS fund balance attributable to milk contractors was at least $6 million on February 28 of the last preceding license year; and (c) the overall fund balance was at least $11 million on February 28 of the last preceding license year. The conditions for fund balances have been met with respect to milk contractors since February 28, 2011, meaning assessments generally have not been due for the license years beginning May 1 of 2011, 2012 and 2013. DATCP currently expects the conditions for the milk contractor assessment holiday would continue to be met for the next one to two fiscal years, assuming no defaults. (The program has had one default since being created in its current form in 2002, which prompted payments of $130,400 in 2005-06.)

The Department has no information currently available on the effect these changes may have, if any, on fund assessments during the biennium.

Legislator's JFC Designee: Rep. Kooyenga

Statement of Motion Intent:
Make the following changes, highlighted below, to Chapter 126.44 (9)

(9) Assets, liabilities, and Other Comprehensive Income Excluded. A milk contractor may not include any of the following in the calculations under sub. (8) (c), unless the department specifically approves their inclusion:

(a) A nontrade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals, unless the note or account receivable is secured by a first priority security interest in real or personal property.

(b) A note or account receivable from a parent organization, a subsidiary, or an affiliate other than an employee.

(c) A note or account that has been receivable for more than one year, unless the milk contractor has established an equal offsetting reserve for uncollectible notes and accounts receivable.

(d) The liability and the corresponding impact to equity resulting from the recording of an Other Comprehensive Loss related to a defined benefit pension plan or plans.

(e) An asset and corresponding liability from the balance sheet that is proven to be owed and collectable from the company itself.

Agency/Agencies Impacted: DATCP

Summary: *Provide a thorough description. Please attach all supporting documentation and talking points.*

The Producer Security Act is beneficial for the protection of dairy producers; however, the standards are not current with today's accounting practices and verbiage. The proposed changes update the Producer Security Act to more correctly reflect the companies leverage position as it relates to Producer Security. These changes will help businesses develop and grow while still upholding the intent of the Producer Security Act.

OBJECTIVE

1. This Statement results from the initial phase of a comprehensive project to improve an employer's accounting for defined benefit pension and other postretirement plans. The objectives of this Statement are for an employer to:

a. Recognize the overfunded or underfunded status of a single-employer[1] defined benefit postretirement plan (benefit plan or plan) as an asset or liability in its statement of financial position and to recognize changes in that funded status in comprehensive income (for a business entity) or changes in unrestricted net assets (for a not-for-profit organization) in the year in which the changes occur.
b. Measure the funded status of a plan as of the date of its year-end statement of financial position, with limited exceptions.

This Statement does not change the accounting for a multiemployer plan.

2. The changes to an employer's accounting and reporting for benefit plans required by this Statement are described in paragraphs 4–22 below. The amendments to the recognition, measurement date, and disclosure requirements of FASB Statements No. 87, *Employers' Accounting for Pensions,* No. 88, *Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits,* No. 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions,* and No. 132 (revised 2003), *Employers' Disclosures about Pensions and Other Postretirement Benefits,* required to effect those changes are included in appendixes to this Statement. Those amendments are an integral part of this Statement. The definitions of terms used in this Statement are the same as those in Statements 87, 88, and 106 (as amended).

3. This Statement also amends Statements 87 and 106 to include guidance related to the selection of assumed discount rates that was previously included in the basis for conclusions of Statement 106 (see Appendixes C and D).

STANDARDS OF FINANCIAL ACCOUNTING AND REPORTING

Reporting by a Business Entity

Recognition of the Funded Status of a Single-Employer Defined Benefit Postretirement Plan

4. A business entity that sponsors one or more single-employer defined benefit plans shall:

a. Recognize the funded status of a benefit plan—measured as the difference between the fair value of plan assets[2] and the benefit obligation—in its statement of financial position. For a pension plan, the benefit obligation shall be the projected benefit obligation; for any other postretirement benefit plan, such as a retiree health care plan, the benefit obligation shall be the accumulated postretirement benefit obligation.
b. Aggregate the statuses of all overfunded plans and recognize that amount as an asset in its statement of financial position. It also shall aggregate the statuses of all underfunded plans and recognize that amount as a liability in its statement of financial position. A business entity that presents a classified statement of financial position shall classify the liability for an underfunded plan as a current liability, a noncurrent liability, or a combination of both. The current portion (determined on a plan-by-plan basis) is the amount by which the actuarial present value of benefits included in the benefit obligation payable in the next 12 months, or operating cycle if longer, exceeds the fair value of plan assets. The asset for an overfunded plan shall be classified as a noncurrent asset in a classified statement of financial position.
c. Recognize as a component of other comprehensive income[3] the gains or losses and prior service

[1]Consistent with paragraph 71 of FASB Statement No. 87, *Employers' Accounting for Pensions,* and paragraph 84 of FASB Statement No. 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions,* a multiple-employer plan shall be considered a single-employer plan rather than a multiemployer plan for purposes of this Statement.

[2]Paragraph 49 of Statement 87 and paragraph 65 of Statement 106 address measuring plan assets at fair value. Paragraph 51 of Statement 87 and paragraph 66 of Statement 106 provide an exception to measuring plan assets at fair value. Plan assets used in plan operations shall be measured at cost less accumulated depreciation or amortization. Paragraph 61 of Statement 87 and paragraph 69 of Statement 106 also provide for a non-fair-value measurement of participation rights in certain insurance contracts.

[3]A business entity that is not required to report other comprehensive income pursuant to FASB Statement No. 130, *Reporting Comprehensive Income,* shall apply the provisions of paragraphs 8–10 of this Statement in an analogous manner that is appropriate for its method of financial reporting.

costs or credits that arise during the period but are not recognized as components of net periodic benefit cost of the period pursuant to Statements 87 and 106.

d. Recognize corresponding adjustments in other comprehensive income when the gains or losses, prior service costs or credits, and transition assets or obligations remaining from the initial application of Statements 87 and 106 are subsequently recognized as components of net periodic benefit cost pursuant to the recognition and amortization provisions of Statements 87, 88, and 106.
e. Apply the provisions of FASB Statement No. 109, *Accounting for Income Taxes,* to determine the applicable income tax effects of items (a)–(d) above.

Measurement Date of Plan Assets and Benefit Obligations

5. A business entity shall measure plan assets and benefit obligations as of the date of its fiscal year-end statement of financial position unless:

a. The plan is sponsored by a subsidiary that is consolidated using a fiscal period that differs from its parent's, as permitted by ARB No. 51, *Consolidated Financial Statements.*
b. The plan is sponsored by an investee that is accounted for using the equity method of accounting under APB Opinion No. 18, *The Equity Method of Accounting for Investments in Common Stock,* using financial statements of the investee for a fiscal period that is different from the investor's, as permitted by Opinion 18.

In those cases, a business entity shall measure the subsidiary's plan assets and benefit obligations as of the date used to consolidate the subsidiary's statement of financial position and shall measure the investee's plan assets and benefit obligations as of the date of the investee's financial statements used to apply the equity method. For example, if a calendar year-end parent consolidates a subsidiary using the subsidiary's September 30 financial statements, the funded status of the subsidiary's benefit plan included in the consolidated financial statements shall be measured as of September 30.

6. Unless a business entity remeasures both its plan assets and benefit obligations during the fiscal year, the funded status it reports in its interim-period statement of financial position shall be the same asset or liability recognized in the previous year-end statement of financial position adjusted for (a) subsequent accruals of net periodic benefit cost that exclude the amortization of amounts previously recognized in other comprehensive income (for example, subsequent accruals of service cost, interest cost, and return on plan assets) and (b) contributions to a funded plan, or benefit payments. Sometimes, a business entity remeasures both plan assets and benefit obligations during the fiscal year. That is the case, for example, when a significant event such as a plan amendment, settlement, or curtailment occurs that calls for a remeasurement. Upon remeasurement, a business entity shall adjust its statement of financial position in a subsequent interim period (on a delayed basis if the measurement date provisions of this Statement have not yet been implemented) to reflect the overfunded or underfunded status of the plan consistent with that measurement date.

Disclosure Requirements

7. A business entity that sponsors one or more benefit plans shall disclose the following information in the notes to its annual financial statements, separately for pension plans and other postretirement benefit plans:

a. For each annual statement of income presented, the amounts recognized in other comprehensive income, showing separately the net gain or loss and net prior service cost or credit. Those amounts shall be separated into amounts arising during the period and reclassification adjustments of other comprehensive income as a result of being recognized as components of net periodic benefit cost for the period.
b. For each annual statement of income presented, the net transition asset or obligation recognized as a reclassification adjustment of other comprehensive income as a result of being recognized as a component of net periodic benefit cost for the period.
c. For each annual statement of financial position presented, the amounts in accumulated other comprehensive income that have not yet been recognized as components of net periodic benefit cost, showing separately the net gain or loss, net prior service cost or credit, and net transition asset or obligation.
d. The amounts in accumulated other comprehensive income expected to be recognized as components of net periodic benefit cost over the fiscal year that follows the most recent annual statement of financial position presented, showing

In 5/17

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RCT:...:...

jld

LFB:......Ferguson – Milk contractor assessments

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

Note

At the locations indicated, amend the bill as follows:

1. Page 859, line 19: after that line insert:

"**SECTION 1894p.** 126.44 (8) (c) 1. and 2. of the statutes are amended to read:

126.44 **(8)** (c) 1. The milk contractor's current ratio, excluding any ~~assets~~ <u>items</u> required to be excluded under sub. (9).

History: 2001 a. 16; 2003 a. 238; 2009 a. 296.

2. The milk contractor's debt to equity ratio, excluding any ~~assets~~ <u>items</u> required to be excluded under sub. (9).

History: 2001 a. 16; 2003 a. 238; 2009 a. 296.

SECTION 1894q. 126.44 (9) (intro.) of the statutes is amended to read:

126.44 **(9)** ~~ASSETS~~ <u>ITEMS</u> EXCLUDED. (intro.) A milk contractor may not include any of the following ~~assets~~ <u>items</u> in the calculations under sub. (8) (c), unless the department specifically approves their inclusion:

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126.44 **(9)** (d) A liability and the corresponding impact to equity resulting from the recording of a loss as a component of other comprehensive income due to the recognition of the funding status of a defined benefit pension plan.

SECTION 1894s. 126.44 (9) (e) of the statutes is created to read:

126.44 **(9)** (e) An asset and the corresponding liability that represent an amount that is collectable from and owed to the milk contractor itself, as proven by the milk contractor.".

(END)

Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0110/P1dn
RCT:jld:...

date

Paul Ferguson:

I modified the wording of proposed s. 126.44 (9) (d) a little to reflect the terminology in Financial Accounting Standards Board Statement Number 158, on accounting for the funding status of defined benefit pension plans.

As we discussed, it would seem logical to make these provisions optional, rather than making them mandatory. As drafted, a milk contractor that would not benefit from proposed s. 126.44 (9) (d) is required to make the adjustments in calculating its ratios unless it gets DATCP's permission not to make them. And the effect of proposed s. 126.44 (9) (e) is to say that a milk contractor that owes a debt to itself is required to exclude the debt and the asset, but only if it proves that it does owe the debt to itself.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0110/P1dn
RCT:jld:ph

May 20, 2013

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State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0110/P1
RCT:jld:ph

LFB:......Ferguson – Milk contractor assessments

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